BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION

LORENE A. JOHNSON	)	
Claimant	)	
	)	
VS.	)	
	)	
COHOON CHIROPRACTIC	)	
Respondent	)	Docket No. 1,010,150
	)	
AND	)	
	)	
STATE FARM INSURANCE	)	
Insurance Carrier	)	

ORDER

Respondent and its insurance carrier request review of the July 10, 2003 preliminary hearing Order entered by Administrative Law Judge John D. Clark.

ISSUES

The Administrative Law Judge (ALJ) found the claimant's accidental injury arose out of and in the course of employment and therefore ordered respondent to pay temporary total disability compensation and medical mileage.

The respondent and its insurance carrier request review and argue claimant failed to establish that her fall in a hotel bathroom arose out of and in the course of her employment.

Conversely, claimant argues that she was required by respondent to be at the hotel to attend a business seminar. Because claimant was on a business trip she argues the injuries she suffered in the fall in her hotel room are compensable and she requests the Board to affirm the ALJ's decision.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the evidentiary record filed herein, the Board makes the following findings of fact and conclusions of law:

Claimant was employed as the financial executive in charge of insurance processing for respondent. On February 1, 2003, claimant was in Dallas, Texas, attending a business seminar. Claimant was required by respondent to attend the seminar. Respondent had provided the transportation to the seminar as well as a hotel room which claimant shared with two co-workers.

After the first day of the seminar, respondent's employees went to dinner together and then returned to the hotel. Claimant went to her room at approximately 11 p.m. and went to bed. Claimant went to sleep and then approximately a half hour later awakened and went to the bathroom. As she stood up from the toilet she slipped and fell backwards hitting the toilet. Claimant laid on the floor a few minutes and then contacted the front desk. An ambulance was summoned and she was taken to the emergency room at the Baylor Medical Center. Claimant suffered four broken ribs in her fall.

After returning from Dallas, claimant was told to take some time off and she spent a week with her parents. But by the end of her stay with her parents, the claimant developed pneumonia and was hospitalized. After she was released claimant attempted to work a half day and then worked a few more days until she was again hospitalized for nine days. After her release from the hospital claimant was told she was placed on a leave of absence until May 3, 2003. Because claimant did not want to continue working for respondent she did not return to work on that date.

Respondent argues that because claimant's fall did not occur during the seminar or on her way to or from the seminar her accident is analogous to cases where an employee has relocated to a distant work location and then suffers injury going to work.[1] And because going to the bathroom is a normal activity of day to day living such activity does not arise out of the employment. Lastly, respondent argues that because the work-related activity (attendance at the seminar) had ended for the day, the accident did not arise in the course of employment. Stated another way, respondent argues that although claimant was traveling and attending the seminar for a business purpose her activities are divisible and because claimant's work day had ended her accident is not compensable.

An employee's participation in an educational or training seminar may be considered within the scope of employment for workers compensation purposes where participation is found to be incidental to the employment.[2]

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[1] See *Butera v. Fluor Daniel Constr. Corp.*, 31 Kan. App. 2d 108, 61 P.3d 95 (2003).

[2] *Brobst v. Brighton Place North*, 24 Kan. App.2d 766, 955 P.2d 1315 (1997).

In *Blair,*[3] the Court held that when a business trip is an integral part of the claimant's employment the "entire undertaking is to be considered from a unitary standpoint rather than divisible." *See also*, 2 *Larson's Workers' Compensation Law* § 25.01 which states:

> Employees whose work entails travel away from the employer's premises are held in the majority of jurisdictions to be within the course of their employment continuously during the trip, except when a distinct departure on a personal errand is shown. Thus, injuries arising out of the necessity of sleeping in hotels or eating in restaurants away from home are usually held compensable.

Applying the principles announced in the above-referenced cases and treatise, the Board concludes that the required attendance at the seminar was incidental to claimant's employment and *Blair* requires the entire undertaking to be viewed as indivisible. Because the entire trip to attend the seminar is indivisible, the accident claimant suffered in the slip and fall in her hotel room is compensable. The ALJ's Order is affirmed.

AWARD

WHEREFORE, it is the finding of the Board that the Order of Administrative Law Judge John D. Clark dated July 10, 2003, is affirmed.

IT IS SO ORDERED.

Dated this _____ day of September 2003.

_____
BOARD MEMBER

c: Robert R. Lee, Attorney for Claimant
P. Kelly Donley, Attorney for Respondent and its Insurance Carrier
John D. Clark, Administrative Law Judge
Paula S. Greathouse, Workers Compensation Director

[3] *Blair v. Shaw*, 171 Kan. 524, 233 P.2d 731 (1951).